

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
W. R. GRACE & CO., *et al.*)
Debtors.) Case No. 01-01139 (JKF)
) Jointly Administered
)
Hearing Date: June 29, 2009, 10:30 am ET
Response Deadline: June 12, 2009
Re: Docket No. 21788
June 29, 2009 Agenda No. 19

**STIPULATION BETWEEN DEBTORS AND FIREMAN'S FUND
INSURANCE COMPANY FOR TEMPORARY ALLOWANCE OF
PROOF OF CLAIM PURSUANT TO BANKRUPTCY RULE 3018**

The Debtors and Fireman's Fund Insurance Company ("Fireman's Fund") hereby stipulate, pursuant to Bankruptcy Rule 3018, for temporary allowance of Fireman's Fund's proof of claim no. 15175 as follows:

1. Fireman's Fund has filed a proof of claim (the "Claim") designated as claim no. 15175 in these cases with respect to a supersedeas bond (the "Bond") it issued to the Debtors pre-petition to prevent execution on a personal injury judgment on appeal (the "Edwards' Judgment") and a related indemnification agreement entered into by Debtors and Fireman's Fund (the "Indemnification Agreement").
2. The First Amended Joint Plan of Reorganization (the "Plan") classifies the Claim as a Class 6 Claim, and Fireman's Fund was provided with a Class 6 ballot for the Claim in the amount of \$1.00.
3. Fireman's Fund disputes the classification of the Claim as a Class 6 Claim. Instead, Fireman's Fund contends that the Claim should be classified as a Class 9 General Unsecured Claim, and objected to the Plan on that basis, among others.

4. Pursuant to the approved Voting Procedures for the Plan (Docket No. 20944), Fireman's Fund filed a motion for temporary allowance of the Claim under Bankruptcy Rule 3018. Fireman's Fund seeks temporary allowance of the Claim in the amount of \$3.86 million, whether it is classified as a Class 9 General Unsecured Claim or as a Class 6 Claim.

5. Fireman's Fund agrees with the Plan Proponents that it is not necessary at this time to litigate the classification issue, because that issue will be litigated in Phase II of the Confirmation Hearing.

6. Given that the value of the Claim is contingent on the outcome of the underlying appeal of the Edwards' Judgment and that such appeal remains stayed, it is not possible at this time to determine the exact value, if any, the Claim will ultimately have.

7. The Debtors and Fireman's Fund, however, are willing to and hereby do stipulate and agree that pursuant to Bankruptcy Rule 3018(b), Fireman's Fund's Claim may be temporarily allowed in the amount of \$3.86 million as a Class 6 claim for purposes of accepting or rejecting the Plan. The Debtors will direct their voting agent to count the Fireman's Fund ballot cast as a Class 6 creditor rejecting the Plan in such amount.

8. If, following Phase II, the Court orders that the Fireman's Fund Claim be classified as a Class 9 General Unsecured Claim, then the Class 9 ballot cast by Fireman's Fund with respect to the Claim shall be counted as Class 9 ballot accepting the Plan in the amount of \$3.86 million.

9. The Debtors and Fireman's Fund further agree that this Stipulation is not: (a) an admission by the Plan Proponents or Fireman's Fund as to the actual validity, value, and allowance of the Claim; (b) an admission or agreement by Fireman's Fund as to the appropriate classification or validity of the Claim; or (c) an admission by the Plan Proponents that Fireman's

Fund has standing in the confirmation proceedings by virtue of the existence of the contingent liability under the Bond. The Plan Proponents and Fireman's Fund shall retain all of their rights to challenge and litigate the classification and value of the Claim in the confirmation proceedings, any claims objection proceedings, or in any litigation with respect to the Edwards' Judgment and appeal or proceedings with respect to enforcement of the Bond, Bond documents, or the Indemnification Agreement. This Stipulation is also without prejudice to any agreement by Plan Proponents and Fireman's Fund to classify the Claim in a particular class or amount, for voting purposes and/or other purposes including distribution.

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Stipulated and Agreed to this 22nd day of June 2009

KIRKLAND & ELLIS LLP
David M. Bernick, P.C.
Theodore O. Freedman
Marc A. Lewinstein
601 Lexington Avenue
New York, NY 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

and

The Law Offices of Janet S. Baer P.C.
70 West Madison Street, Suite 2100
Chicago, IL 60602
Phone: (312) 641-2162
Fax: (312) 641-2165

and

PACHULSKI STANG ZIEHL & JONES LLP

Janet O'Neill

Laura Davis Jones (Bar No. 2436)
James E. O'Neill (Bar No. 4042)
Kathleen P. Makowski (Bar No. 3648)
919 North Market Street, 16th Floor
P.O. Box 8705
Wilmington, DE 19899-8705 (Courier 19801)
Phone: (302) 652-4100
Fax: (302) 652-4400

Co-Counsel for Debtors and Debtors in Possession

STEVENS & LEE, P.C.

John D. Demmy (Bar No. 2802)
1105 North Market Street, 7th Floor
Wilmington, DE 19801
Phone: (302) 425-3308
Fax: (610) 371-8515

and

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David M. Bernick, P.C.
Theodore O. Freedman
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919 North Market Street, 16th Floor
P.O. Box 8705
Wilmington, DE 19899-8705 (Courier 19801)
Phone: (302) 652-4100
Fax: (302) 652-4400

Co-Counsel for Debtors and Debtors in Possession

CROWELL & MORING LLP

Leslie A. Davis
Leslie A. Davis (admitted *pro hac vice*)
Mark D. Plevin
Tacie H. Yoon
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004
Telephone: (202) 624-2500
Facsimile: (202) 628-5116

and

John D. Demmy (Bar No. 2802)
1105 North Market Street, 7th Floor
Wilmington, DE 19801
Phone: (302) 425-3308
Fax: (610) 371-8515

and

STEVENS & LEE, P.C.
Leonard P. Goldberger
Marnie E. Simon
1818 Market Street, 29th Floor
Philadelphia, PA 19103-1702
Telephone: (215) 751-2864/2885
Facsimile: (610) 371-7376/8505

Co-Counsel for Fireman's Fund Insurance
Company